

## REMARKS

Reconsideration of the present application as amended is requested. Transmitted herewith is corrected Form PTO-1449 (Sheet 2 of 2) in which the foreign patent document has been listed as GB 196,877 instead of ~~NZ-196,877~~. The undersigned erroneously concluded that this reference, which was cited in the *Supplemental Information Disclosure Statement* mailed November 15, 2002, was a New Zealand patent specification based on the inventor's statement regarding Auckland in the first paragraph of the patent specification. However, the PCT Search Report refers to this document as a British patent document, which is further corroborated by the lion logo in the upper left hand corner of the patent specification.

The withdrawal of the previous rejections under 35 USC § 112, second paragraph, is noted. The allowance of Claim 1-10 and 20 is further noted. In addition, Applicant notes that the examiner has indicated that Claims 15, 16, 25 and 26 would be allowed if re-written in independent form.

In the final Office Action mailed September 11, 2003, Claims 11-14, 17-19, 21-24 and 27-30 were rejected for anticipation over U.S. Patent No. 5,676,315 of Han. This is the same rejection as in the prior Office Action, with the addition of Claim 14. This rejection is once again traversed.

In the final Office Action, the examiner responded to Applicant's arguments in his prior amendment traversing the anticipation rejection over '315 of Han. More specifically, in Applicant's amendment mailed July 23, 2003, Applicant pointed out that independent Claim 11 requires "a turbine mounted inside the case members." Applicant further pointed out that in '315 of Han, rotor 53 is mounted outside of inner housing 72 beneath the transverse plate 73. Applicant further pointed out that independent Claim 21 requires "a self-contained drive assembly mounted inside the riser and including a turbine and a drive mechanism ..." Applicant further pointed out that the inner housing 72 of '315 of Han does not contain the rotor 53.

On page 3 of the final Office Action, the examiner countered that Claim 11 “does not limit the ‘turbine’ to a rotor.” The examiner further contended that “Han’s turbine shaft 71, which has been considered part of the turbine, is mounted in housing 72,73.” In regard to Claim 21 in the final Office Action, the examiner stated that “applicant’s argument is not commensurate in scope with the claimed invention. Claim 21 recites ‘mounted inside the riser’.”

The continued maintenance of the anticipation rejection appears to be due to a misunderstanding regarding claim terminology. The illustrated and described preferred embodiment of Applicant’s claimed turbine is turbine 20 (Figs. 4, 15, 20 and 22) which is a Pelton-type turbine that includes a central cylindrical hollow shaft 36 (Fig. 22), a disc 38 and a plurality of equally circumferentially spaced cups or buckets 40 formed on the periphery of the disc 38. Of course, the claimed turbine could also be the more traditional turbine consisting of a plurality of radially extending angled blades. See page 25, lines 8-10 of the subject application wherein various alternate embodiments for turbine 20 are described. ‘315 of Han uses the term “turbine” to encompass rotor 53 and stator 51. Rotor 53 of Han is mounted for rotation on an axially extending turbine shaft 71 which the examiner considers to be part of the turbine and mounted in housing 72. It appears that the examiner is reading Applicant’s claim term “turbine” more broadly than intended by Applicant’s definition of this term. In any event, Claim 11 has been amended to require that the turbine is “entirely” mounted inside the case members. Such is not the case with ‘315 of Han because rotor 53, which forms part of the turbine 23, is mounted outside of the transverse plate 73. Similarly, Claim 21 has been amended to require a self-contained drive assembly mounted inside the riser and “entirely enclosing” the turbine and a drive mechanism. Clearly, the turbine 23 of ‘315 of Han is not entirely enclosed within inner housing 72 because rotor 53, forming part of turbine 23, is outside of inner housing 72 and beneath transverse plate 73. Accordingly, withdrawal of the anticipation rejection of independent Claims 11 and 21, along with 12-14, 17-19, 22-24 and 27-30 which depend therefrom, is requested.

This case is in condition for allowance and notification to this effect is solicited.

Respectfully submitted,

 10/2/03

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